
S T O L L

K E E N O N

&

P A R K

L L P

300 WEST VINE STREET | SUITE 2100 | LEXINGTON, KENTUCKY 40507-1801
(859) 231-3000 PHONE | (859) 253-1093 FAX | WWW.SKP.COM

LINDSEY W. INGRAM, JR.
859-231-3033
ingramjr@skp.com

September 24, 2003

RECEIVED

SEP 24 2003

PUBLIC SERVICE
COMMISSION

Via Hand Delivery

Mr. Thomas Dorman
Executive Director
Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

RE: Case No. 2003-00143

Dear Tom:

I deliver herewith the original and six (6) copies of a Motion to Compel submitted by Logan Telephone Cooperative, Inc.; Mountain Rural Telephone Cooperative Corporation, Inc.; Peoples Rural Telephone Cooperative Corporation, Inc.; South Central Rural Telephone Cooperative Corporation, Inc. and the Independent Telephone Group for filing.

Very truly yours,

STOLL, KEENON & PARK, LLP

By



Lindsey Ingram, Jr.

/sl

Enc.

cc: Counsel of Record

312\C\Work\LWNTG\2003-00143\007 Dorman.doc

**COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION**

RECEIVED

SEP 24 2003

PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

PETITION OF NPCR, INC.,)	
D/B/A NEXTEL PARTNERS FOR)	CASE NO. 2003-00143
DESIGNATION AS AN ELIGIBLE)	
TELECOMMUNICATIONS CARRIER IN)	
THE COMMONWEALTH OF KENTUCKY)	

MOTION TO COMPEL

Come Logan Telephone Cooperative, Inc.; Mountain Rural Telephone Cooperative Corporation, Inc.; Peoples Rural Telephone Cooperative Corporation, Inc.; South Central Rural Telephone Cooperative Corporation, Inc., and the Independent Telephone Group,¹ by counsel, and hereby moves the Commission to require the applicant, Nextel Partners, to respond to the Information Requests previously propounded.

Request No. 4 and the response provided by Nextel Partners is as follows:

REQUEST NO. 4: Please provide boundary maps which indicate the service areas where Nextel Partners seek ETC designation showing Serving Independent Telephone Group Member local exchange areas. Also, please identify RSA, MSA, Major Trading Area ("MTA"), and county boundaries as well as existing tower/antenna sites.

RESPONSE TO NO. 4: Nextel Partners objects to producing documents it does not have. Subject to that objection and without waiver thereof, Nextel Partners will produce maps that show projected signal propagation on top of Independent Telephone Group Member local exchange areas."

¹ An association of rural telephone companies consisting of Ballard Rural Telephone Cooperative Corporation, Inc.; Brandenburg Telephone Company; Coalfields Telephone Company; Duo County Telephone Cooperative Corporation, Inc.; Foothills Rural Telephone Cooperative Corporation, Inc.; Highland Telephone Cooperative, Inc.; Logan Telephone Cooperative, Inc.; Mountain Rural Telephone Cooperative Corporation, Inc.; North Central Cooperative Corporation; Peoples Rural Telephone Cooperative Corporation, Inc.; South Central Rural Telephone Cooperative Corporation, Inc.; Thacker-Grigsby Telephone Company, Incorporated and West Kentucky Rural Telephone Cooperative Corporation, Inc.

The application of Nextel Partners seeks “Eligible Telecommunications Carrier designation” from the Public Service Commission for rural telephone company study areas described in Attachment 1 to the petition. The petition alleges that “Nextel Partners has sufficient wireless network infrastructure facilities and capacity to provide supported services throughout the Designated Areas in Kentucky over its own facilities.”

The response is insufficient to demonstrate the sufficiency of the applicant’s wireless network infrastructure facilities and capacity to provide the requested services. Existing tower/antenna sites must be shown to document sufficient wireless network infrastructure facilities. The applicant must have maps showing existing tower/antenna sites in Kentucky and they should be produced.

REQUEST NO. 29: For each Serving Independent Telephone Group Member, please indicate the number of CMRS users currently served by Nextel Partners for which Nextel Partners seeks designation and interstate Universal Service support disbursements.

RESPONSE TO NO. 29: Nextel Partners objects to this request as calling for information that is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence. Once designated as an ETC, Nextel Partners would be required to report lines to the Universal Service Administrative Corporation (“USAC”), and USAC will determine eligible lines and funding amounts.

The objection to the Information Request evidences a lack of understanding of the Commission’s process. KRS 278.310 provides that all hearings shall be governed by rules adopted by the Commission and that it shall not be bound by the technical rules of legal evidence. The Commission has not adopted a single rule that allows an applicant to avoid supplying relevant information. If the applicant is going to seek Universal Service support disbursements, the Commission is entitled to know the number of commercial mobile radio service customers currently served.

WHEREFORE, movants pray that the Commission direct the applicants to be responsive to Information Requests No. 4 and No. 29 and all other relief to which they may appear entitled.

STOLL, KEENON & PARK, LLP
300 West Vine Street, Suite 2100
Lexington, Kentucky 40507-1801
Telephone: (859) 231-3000

BY: 
Lindsey Ingram, Jr.

ATTORNEYS FOR INTERVENORS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing pleading has been served by mailing same, postage prepaid, on this 24th day of September, 2003, to the following:

David A. Pike, Esq.
Timothy R. Pickrel, Esq.
Stephen C. Lentz, Esq.
F. Keith Brown, Esq.
Pike Legal Group, PLLC
1578 Highway 44 East, Suite 6
P. O. Box 369
Shepherdsville, Kentucky 40265-0369

Ronald J. Jarvis, Esq.
Albert J. Catalano, Esq.
Catalano & Plache, PLLC
3221 M Street, N.W.
Washington, D.C. 20007

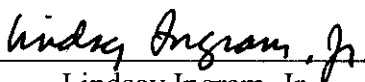
Elizabeth Schofield Brown, Esq.
Nextel Partners, Inc.
13405 Eastpoint Centre Drive, Ste. 100
Anchorage, Kentucky 40223

Donald J. Manning, Esq.
Vice President & General Counsel
NPCR, Inc.
d/b/a Nextel Partners
4500 Carillon Point
Kirkland, Washington 98033

W. Allen Gillum
Mountain Rural Telephone Coop. Corp.
d/b/a Mountain Telephone Long Distance
405 Main Street
P. O. Box 399
West Liberty, Kentucky 41472-0399

James Dean Liebman, Esq.
403 West Main Street
P.O. Box 478
Frankfort, Kentucky 40602

STOLL, KEENON & PARK, LLP

By 
Lindsey Ingram, Jr.